

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF GEORGIA
ROME DIVISION

| | | |
|-----------------------|---|------------------------|
| IN RE: | } | CHAPTER 13 |
| | } | |
| BRIAN ADAM HOOKER and | } | CASE NO. R19-42743-BEM |
| MEGAN LASHAE HOOKER, | } | |
| DEBTOR(S) | } | JUDGE ELLIS-MONRO |

**CHAPTER 13 TRUSTEE'S RESPONSE TO
DEBTORS' AMENDED MOTION TO INCUR
NEW DEBT BY PURCHASING A HOUSE**

COMES NOW, the undersigned counsel on behalf of K. EDWARD SAFIR, Chapter 13 Trustee in the above-styled case, and files herewith her Response to Debtors' Amended Motion to Incur New Debt by Purchasing a House (hereinafter referred to as the "Motion") [Doc. No. 55], and respectfully shows the Court as follows:

1.

Debtors filed for relief under Chapter 13 on November 25, 2019. The confirmed Chapter 13 plan provides for payments of \$1,285.00 per month, with a zero percent (0%) dividend or \$0.00 pool to be paid to unsecured creditors with filed and allowed claims. The Debtors, to date, have paid approximately \$37,002.49 to the Trustee and Debtors' plan payments are substantially delinquent in the amount of \$5,402.51. The Debtors' plan has been pending for thirty-four (34) months.

2.

On August 30, 2022, the Debtors filed the aforementioned Motion. In said Motion, the Debtors propose to purchase a house for \$280,000.00 at a rate of 5.125% with a monthly payment of \$1,820.03 [Doc. No. 47].

K. Edward Safir, Chapter 13 Trustee
285 Peachtree Center Avenue, N.E., Suite 1600
Atlanta, Georgia 30303
(404) 525-1110
sonyab@atlch13tt.com

3.

The undersigned, on behalf of the Chapter 13 Trustee, is unable to make a determination regarding the Motion as there is no supporting documentation attached which includes the proposed terms of the sale; in particular, the *Purchase and Sale* contract in support of the Motion is not attached. The amended Motion, as filed, does include a copy of the proposed *Closing Estimate*. The Trustee requests that an amendment and/or addendum to the Debtors' Motion is filed to include a copy of the *Purchase and Sale* contract.

4.

Prior to filing the Motion, the Debtors' Schedule J reflected a rent expense of \$850.00. As the Debtors' housing expense will more than double under the terms of the Motion, the undersigned, on behalf of the Chapter 13 Trustee, requested that the Debtors provide updated proof of income to assess continued feasibility of the confirmed plan. Based upon the amended Schedules I & J filed on September 7, 2022, under penalty of perjury, the Debtors' income had not changed [Doc. No. 52]. The Debtors' food expense, however, was substantially decreased for a household of four (4). On September 8, 2022, the Debtors filed payment advices which reflect that Mrs. Hooker received an increase in income in March 2021, which had not been previously disclosed. Debtors filed a second (2nd) amended I & J [Doc. No. 54] which now discloses the additional income and the Debtors' food expense pursuant to the 2nd amended Schedule J has increased to over \$2,000.00. The undersigned, on behalf of the Chapter 13 Trustee, believes the approval of the Motion will promote a confirmed plan which is presently not feasible. The Debtors' failure to disclose the increase in income for more than a year and half while the case has been pending as well demonstrates a lack of good faith.

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5.

The Chapter 13 Trustee further objects on the basis that his office was not provided with sufficient and adequate notice of the *Order Granting Motion to Set Expedited Hearing*. Pursuant to the Certificate of Service filed on September 2, 2022 [Doc. No. 50], it does not appear the Chapter 13 Trustee was served with notice of the Order by e-mail or otherwise as instructed by the Court's Order. The Chapter 13 Trustee did not have any communication with Debtors' attorney's office regarding this matter prior to the September 7, 2022 hearing. The Chapter 13 Trustee would hereby oppose the submission of a proposed Order on the Motion.

Based on the foregoing, the undersigned for the Chapter 13 Trustee requests that the Court review this matter and deny the Motion for the reasons previously stated and for such other relief as the Court deems just, necessary and proper.

Respectfully submitted this 9th day of September, 2022.

/s/
Sonya Buckley Gordon
Attorney for the Chapter 13 Trustee
GA Bar No. 140987

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R19-42743-BEM

CERTIFICATE OF SERVICE

This is to certify that on this day I caused a copy of the foregoing pleading to be served via United States First Class Mail, with adequate postage thereon, on the following parties at the address shown for each:

Brian Adam Hooker
1021 Delaware Dr
Dalton, GA 30721-3638

Megan Lashae Hooker
1021 Delaware Dr
Dalton, GA 30721-3638

and all parties of interest on the attached creditor matrix.

I further certify that I have on this day electronically filed the pleading using the Bankruptcy Court's Electronic Filing program, which sends a notice of this document and an accompanying link to this document to the following parties who have appeared in this case under the Bankruptcy Court's Electronic Case Filing program:

Saeger & Associates, LLC

This 9th day of September, 2022.

/s/
Sonya Buckley Gordon
Attorney for the Chapter 13 Trustee
GA Bar No. 140987

K. Edward Safir, Chapter 13 Trustee
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Label Matrix for local noticing
113E-4
Case 19-42743-bem
Northern District of Georgia
Rome
Fri Sep 9 09:51:24 EDT 2022

1st Franklin Financial Corporation
Attn: Administrative Services
P.O. Box 880
Toccoa, GA 30577-0880

AT&T Mobility II LLC
c/o AT&T SERVICES INC.
KAREN A. CAVAGNARO LEAD PARALEGAL
ONE AT&T WAY, SUITE 3A104
BEDMINSTER, NJ. 07921-2693

Ally Bank
PO Box 130424
Roseville, MN 55113-0004

Ally Financial
PO Box 380901
Bloomington, MN 55438-0901

(p)CREDITORS BANKRUPTCY SERVICE
PO BOX 800849
DALLAS TX 75380-0849

(p)PNC BANK RETAIL LENDING
P O BOX 94982
CLEVELAND OH 44101-4982

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29777 Telegraph Road, Suite 2440
Southfield, MI 48034-7667

Bridgecrest Credit
7300 E Hampton Ave Ste 100
Mesa, AZ 85209-3324

CVI SGP Acquisition Trust
c/o Resurgent Capital Services
PO BOX 10587
Greenville, SC 29603-0587

CW Nexus Credit Card Holdings 1, LLC
Resurgent Capital Services
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Greenville, SC 29603-0368

Capital One
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Salt Lake City, UT 84130-0281

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4515 N Santa Fe Ave
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225 CHASTAIN MEADOWS CT
KENNESAW GA 30144-5942

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d/b/a Erlanger Health System
C/O Justin G. Woodward
Kennedy, Koontz & Klingler
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Chattanooga, TN 37404-2305

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Comenity Bank/Victorias Secret
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Credit One Bank
PO Box 98873
Las Vegas, NV 89193-8873

Dept of Education/Nelnet
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Aurora, CO 80014-2904

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SIOUX FALLS SD 57110-1003

Harley-Davidson Credit Corp.
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Addison, Texas 75001-9013

Brian Adam Hooker
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Megan LaShae Hooker
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LVNV Funding, LLC
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Greenville, SC 29603-0587

LVNV Funding, LLC
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Levine & Block, LLC
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MERRICK BANK
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MOMA Trust LLC
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PO Box 788
Kirkland, WA 98083-0788

Matthew McElfish
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NGRCA
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DALTON GA 30722-1949

North Georgia Regional Collection Agency
224 N Hamilton St
Dalton, GA 30720-4214

Opportunity Financial
130 E Randolph St Ste 3400
Chicago, IL 60601-6379

PRA Receivables Management, LLC
PO Box 41021
Norfolk, VA 23541-1021

Paragon Revenue Group
PO Box 127
Concord, NC 28026-0127

(p)PORTFOLIO RECOVERY ASSOCIATES LLC
PO BOX 41067
NORFOLK VA 23541-1067

Resurgent Capital Services, LP
Matt Overton Secured Bankruptcy Specia
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Greenville, SC 29603-0587

Dan Saeger
Saeger & Associates, LLC
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Dalton, GA 30720-8212

K. Edward Safir
Standing Chapter 13 Trustee
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Synchrony Bank
c/o PRA Receivables Management, LLC
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Norfolk, VA 23541-1021

UownLeasing
10500 University Center Drive
Suite 140
Tampa, FL 33612-6415

Verizon
by American InfoSource as agent
4515 N Santa Fe Ave
Oklahoma City, OK 73118-7901

Verizon Wireless
1 Verizon Pl
Alpharetta, GA 30004-8510

Whitfield County Superior Court
205 N Selvidge St
Dalton, GA 30720-4291

Justin G. Woodward
Kennedy, Koontz & Klingler
320 N. Holtzclaw Avenue
Chattanooga, TN 37404-2305

The preferred mailing address (p) above has been substituted for the following entity/entities as so specified
by said entity/entities in a Notice of Address filed pursuant to 11 U.S.C. 342(f) and Fed.R.Bank.P. 2002 (g)(4).

Army & Air Force Exchange Services
Attention: GC-G
3911 S. Walton Walker Blvd
Dallas, TX 75236

BEVA
PO Box 10566
Birmingham, AL 35296-0001

CarMax Auto Finance dba CarMax Business Serv
225 Chastain Meadows Court,
Suite 210
Kennesaw, GA 30144

(d)Carmax Auto Finance
225 Chastain Meadows Ct NW
Kennesaw, GA 30144-5897

Discover Financial Services LLC
PO Box 15316
Wilmington, DE 19850-5316

First National Credit Card
500 E 60th St N
Sioux Falls, SD 57104-0478

Jefferson Capital Systems LLC
PO Box 7999
St Cloud, MN 56302-9617

(d)Jefferson Capital Systems LLC
Po Box 7999
Saint Cloud Mn 56302-9617

Lendup Card Tab Bank
PO Box 105286
Atlanta, GA 30348

(d)Military Star
3911 S Walton Walker Blvd
Dallas, TX 75236-1509

(d)PNC Bank, NA
PO Box 94982
Cleveland, OH 44101

Portfolio Recovery
120 Corporate Blvd Ste 100
Norfolk, VA 23502-4952

(d)Portfolio Recovery Associates, LLC
POB 41067
Norfolk VA 23541

The following recipients may be/have been bypassed for notice due to an undeliverable (u) or duplicate (d) address.

(u)CVI SGP ACQUISITION TRUST C/O RESURGENT CA

(d)LVNV Funding LLC
PO Box 10587
Greenville, SC 29603-0587

(d)Opportunity Financial, LLC
130 E. Randolph Street
Suite 3400
Chicago, IL 60601-6379

(u)PNC Bank, NA

End of Label Matrix
Mailable recipients 52
Bypassed recipients 4
Total 56